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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

HEARINGS CLERK
EPA--REGION 10

IN THE MATTER OF:

Taylor Lumber & Treating Site

Docket CERCLA-10-2002-0034

Under the Authority of the
Comprehensive Environmental
Response, Compensation, and
Liability Act of 1980,

42 U.S.C. § 9601, *et seq.*, as amended

AGREEMENT AND
COVENANT NOT TO SUE
Pacific Wood Preserving of Oregon

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I. INTRODUCTION

1. This Agreement and Covenant Not to Sue ("Agreement") is made and entered into by and between the United States on behalf of the Environmental Protection Agency ("EPA") and Pacific Wood Preserving of Oregon (collectively the "Parties").

1 2. This Agreement is entered into pursuant to the Comprehensive Environmental
2 Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C.
3 § 9601, *et seq.*, and the authority of the Attorney General of the United States to compromise
4 and settle claims of the United States.

5 3. This Agreement concerns the Taylor Lumber & Treating, Inc. ("Taylor Lumber")
6 Site in Sheridan, Oregon. The Taylor Lumber Site contains a wood-processing and wood-
7 treating business. Contaminants present at the Site include, among others, pentachlorophenol
8 (PCP), arsenic and other heavy metals, and PAHs (polycyclic aromatic hydrocarbons). These
9 contaminants, found in soil, surface water, ground water, and air, were released at the Taylor
10 Lumber Site over years of wood-treating operations. Taylor Lumber & Treating Inc. filed a
11 voluntary petition for relief pursuant to Chapter 11 of the U.S. Bankruptcy Code on June 11,
12 2001, in the United States Bankruptcy Court, District of Oregon.

13 4. The Settling Respondent, Pacific Wood Preserving of Oregon ("PWPO"), is a
14 corporation registered in Nevada. PWPO's corporate headquarters are located at 5601 District
15 Blvd., Bakersfield, CA 93313. PWPO is purchasing the treatment plant portion of the Taylor
16 Lumber Site, for continued use as a wood treatment business. This purchase takes place under
17 the supervision and with the approval of the U.S. Bankruptcy Court.

18 5. The Parties agree to undertake all actions required by the terms and conditions of
19 this Agreement. The purpose of this Agreement is to settle and resolve, subject to
20 reservations and limitations contained in Sections IX, X, XI, and XII the potential liability of
21 the Settling Respondent under Section 107 of CERCLA, 42 U.S.C. § 9607, for the Existing
22 Contamination at the Property that would otherwise result from Settling Respondent
23 becoming the owner or operator of the Site. In furtherance of the purposes of this Agreement,
24 EPA agrees not to assert that Settling Respondent is a successor-in-interest to Taylor Lumber
25 & Treating, Inc. pursuant to the Resource Conservation and Recovery Act, including but not
26 limited to the requirements of Consent Decree (Civil Action No. 93-858-JO) or EPA
27 Administrative Order On Consent (Docket No. 10-94-0244-RCRA).

6. The Parties agree that the Settling Respondent's entry into this Agreement and the actions undertaken by the Settling Respondent in accordance with the Agreement do not constitute an admission of any liability by the Settling Respondent.

7. The resolution of this potential liability, in exchange for provision by the Settling Respondent to EPA of a substantial benefit, is in the public interest.

II. DEFINITIONS

8. Unless otherwise expressly provided herein, terms used in this Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations, including any amendments thereto.

a. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

b. "Existing Contamination" shall mean:

i) any hazardous substances, pollutants, or contaminants present or existing on or under the Property as of the effective date of this Agreement;

ii) any hazardous substances, pollutants, or contaminants that migrated from the Property prior to the effective date of this Agreement; and

iii) any hazardous substances, pollutants or contaminants presently at the Site that migrate onto or under or from the Property after the effective date of this Agreement.

c. "Parties" shall mean the United States on behalf of EPA and the Settling Respondent.

d. "Property" shall mean that portion of the Site purchased by the Settling Respondent, comprising approximately 34 acres and described in Exhibit 1 of this Agreement.

e. "Settling Respondent" shall mean Pacific Wood Preserving of Oregon.

f. "Site" shall mean the Taylor Lumber Site, located at 22125 SW Rock Creek Road in Sheridan, Yamhill County, Oregon, and depicted generally on the map attached as

1 Exhibit 2. The Site shall include the Property and all areas to which hazardous substances,
2 pollutants, or contaminants have come to be located.

3 g. "United States" shall mean the United States of America, its departments,
4 agencies, and instrumentalities.

6 III. STATEMENT OF FACTS

7 9. Taylor Lumber & Treating Inc. filed a voluntary petition for relief pursuant to
8 Chapter 11 of the U.S. Bankruptcy Code on June 11, 2001, in the United States Bankruptcy
9 Court, District of Oregon ("the Bankruptcy Court"). As a part of the Bankruptcy proceedings,
10 Taylor Lumber is selling its treating business.

11 10. Settling Respondent entered into an Asset Purchase Agreement with Taylor
12 Lumber dated December 13, 2001, to purchase certain assets from Taylor Lumber, including
13 the Property. The Bankruptcy Court approved the sale to PWPO by Order dated December
14 20, 2001.

15 11. Settling Respondent intends to conduct a business at the Property that involves
16 the treatment of lumber products and poles with preservatives that have relatively low
17 environmental impact and toxicity and are distinguishable from preservatives presently on the
18 Site.

19 12. The Settling Respondent represents, and for the purposes of this Agreement EPA
20 relies on those representations, that Settling Respondent has had no involvement with the
21 Property or the Site.

23 IV. PAYMENT

24 13. In consideration of and in exchange for the United States' Covenant Not to Sue in
25 Section X herein and Removal of Lien in Section XXII herein, Settling Respondent agrees
26 that EPA shall receive the sum of \$500,000. Payment shall be made by either the Settling
27 Respondent or by the Taylor Lumber estate with the approval of the Bankruptcy Court. All
28

1 payments required by this Agreement shall be made in the form of a certified check or checks
2 made payable to "EPA Hazardous Substance Superfund," referencing the EPA Region 10
3 Docket number, Site/Spill ID #10F1, and name and address of Settling Respondent. All
4 payments made shall be deposited into the Taylor Lumber and Treating Special Account
5 within the EPA Hazardous Substance Superfund. Payment(s) shall be sent to Mellon Bank,
6 EPA-Region 10, Attention Superfund Accounting, P.O. Box 360903M, Pittsburgh, PA
7 15251. Notice of payment shall be sent to those persons listed in Section XVII (Notices and
8 Submissions) and to EPA Region 10 Financial Management Officer, U.S. Environmental
9 Protection Agency, 1200 Sixth Avenue, OMP-146, Seattle, WA 98101. Amounts paid by
10 Settling Respondent under this Agreement and deposited into the Taylor Lumber and Treating
11 Special Account shall be retained and used to conduct or finance response actions at or in
12 connection with the Site, or transferred by EPA to the EPA Hazardous Substance Superfund.
13

14 V. WORK TO BE PERFORMED

15 14. In further consideration of and in exchange for the United States' Covenant Not to
16 Sue in Section X herein and Removal of Lien in Section XXII herein, Settling Respondent
17 agrees to operate and maintain a groundwater extraction and disposal system, to maintain the
18 existing asphalt covers, and to maintain the contaminated soil storage cells. The Work to Be
19 Performed is described fully in the Statement of Work attached as Exhibit 3.
20

21 VI. LIMITATIONS ON USE OF PROPERTY

22 15. In further consideration of and in exchange for the United States' Covenant Not
23 to Sue in Section X herein and Removal of Lien in Section XXII herein, Settling Respondent
24 agrees that, in conducting its wood-treating business, Settling Respondent shall not treat wood
25 with solutions containing ACZA (ammoniacal copper zinc arsenate), CCA (copper chromated
26 arsenate), pentachlorophenol, creosote, or any arsenical wood-preserving compounds.
27
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VII. ACCESS/NOTICE TO SUCCESSORS IN INTEREST

16. Commencing upon the date that it acquires title to the Property, Settling Respondent agrees to provide to EPA, its authorized officers, employees, representatives, and all other persons performing response actions under EPA oversight, an irrevocable right of access at all reasonable times to the Property and to any other property to which access is required for the implementation of response actions at the Site, to the extent access to such other property is controlled by the Settling Respondent, for the purposes of performing and overseeing response actions at the Site under federal law. EPA agrees to provide reasonable notice to the Settling Respondent of the timing of response actions to be undertaken at the Property. Notwithstanding any provision of this Agreement, EPA retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, ("RCRA") *et seq.*, and any other applicable statute or regulation, including any amendments thereto.

17. With respect to any Property owned or controlled by the Settling Respondent that is located within the Site, within fifteen days after the effective date of this Agreement or the date of acquisition of any Property, whichever date is later, the Settling Respondent shall submit to EPA for review and approval a notice to be filed with the Recorder's Office, Yamhill County, State of Oregon. The notice shall provide notice to all successors-in-title that the Property is part of the Site and that it is subject to this Agreement. The Settling Respondent shall record the notice within 10 days of EPA's approval of the notice. The Settling Respondent shall provide EPA with a certified copy of the recorded notice within ten days of recording such notice.

18. The Settling Respondent shall ensure that assignees, successors in interest, lessees, and sublessees of the Property shall provide the same access and cooperation. The Settling Respondent shall ensure that a copy of this Agreement is provided to any current lessee or sublessee on the Property as of the effective date of this Agreement and shall ensure

1 that any subsequent leases, subleases, assignments, or transfers of the Property or an interest
2 in the Property are consistent with this Section, Section XIII (Parties Bound/Transfer of
3 Covenant), and Section V (Work to be Performed) of the Agreement.

4 5 VIII. DUE CARE/COOPERATION

6 19. The Settling Respondent shall exercise due care at the Site with respect to the
7 Existing Contamination and shall comply with all applicable local, state, and federal laws and
8 regulations. The Settling Respondent recognizes that the implementation of response actions
9 at the Site may interfere with the Settling Respondent's use of the Property and may require
10 closure of its operations or a part thereof for an unspecified period of time. The Settling
11 Respondent agrees to cooperate fully with EPA in the implementation of response actions at
12 the Site and further agrees not to interfere with such response actions. EPA agrees, consistent
13 with its responsibilities under applicable law, to use reasonable efforts to minimize any
14 interference with the Settling Respondent's operations by such entry and response. In the
15 event the Settling Respondent becomes aware of any action or occurrence which causes or
16 threatens a release of hazardous substances, pollutants or contaminants at or from the Site that
17 constitutes an emergency situation or may present an immediate threat to public health or
18 welfare or the environment, Settling Respondent shall immediately take all appropriate action
19 to prevent, abate, or minimize such release or threat of release, and shall, in addition to
20 complying with any applicable notification requirements under Section 103 of CERCLA, 42
21 U.S.C. §9603, or any other law, immediately notify EPA of such release or threatened release.

22 23 IX. CERTIFICATION

24 20. By entering into this agreement, the Settling Respondent certifies that to the best
25 of its knowledge and belief it has fully and accurately disclosed to EPA all nonpublic
26 information known to Settling Respondent and all nonpublic information in the possession or
27 control of its officers, directors, employees, contractors, and agents which relates in any way

1 to any Existing Contamination or any past or potential future release of hazardous substances,
2 pollutants or contaminants at or from the Site and to its qualification for this Agreement. The
3 Settling Respondent also certifies that to the best of its knowledge and belief it has not caused
4 or contributed to a release or threat of release of hazardous substances or pollutants or
5 contaminants at the Site. If the United States determines that information provided by Settling
6 Respondent is not materially accurate and complete, the Agreement, within the sole discretion
7 of the United States, shall be null and void and the United States reserves all rights it may
8 have.

10 X. UNITED STATES' COVENANT NOT TO SUE

11 21. Subject to the Reservation of Rights in Section XI of this Agreement, upon
12 payment of the amount specified in Section IV (Payment) of this Agreement, and conditioned
13 upon performance of the work specified in Section V (Work to Be Performed) to the
14 satisfaction of EPA, and upon compliance by Settling Respondent with its obligations under
15 Section VI (Limitations on Use of Property), Section VII (Access/Notice to Successors in
16 Interest), and Section VIII (Due Care and Cooperation), the United States covenants not to sue
17 or take any other civil or administrative action against Settling Respondent for any and all
18 civil liability for injunctive relief or reimbursement of response costs pursuant to Sections 106
19 or 107(a) of CERCLA, 42 U.S.C. §§ 9606 or 9607(a) with respect to the Existing
20 Contamination.

22 XI. RESERVATION OF RIGHTS

23 22. The covenant not to sue set forth in Section X above does not pertain to any
24 matters other than those expressly specified in Section X (United States' Covenant Not to
25 Sue). The United States reserves and the Agreement is without prejudice to all rights against
26 Settling Respondent with respect to all other matters, including but not limited to, the
27 following:

1 a. claims based on a failure by Settling Respondent to meet a requirement of
2 this Agreement, including but not limited to Section IV (Payment), Section V (Work to Be
3 Performed), Section VI (Limitations on Use of Property), Section VII (Access/Notice to
4 Successors in Interest), Section VIII (Due Care/Cooperation), and Section XVI (Payment of
5 Costs);

6 b. any liability resulting from past or future releases of hazardous substances,
7 pollutants or contaminants, at or from the Site caused or contributed to by Settling
8 Respondent, its successors, assignees, lessees, or sublessees;

9 c. any liability resulting from exacerbation by Settling Respondent, its
10 successors, assignees, lessees, or sublessees, of Existing Contamination;

11 d. any liability resulting from the release or threat of release of hazardous
12 substances, pollutants, or contaminants, at the Site after the effective date of this Agreement,
13 not within the definition of Existing Contamination;

14 e. criminal liability;

15 f. liability for damages for injury to, destruction of, or loss of natural resources,
16 and for the costs of any natural resource damage assessment incurred by federal agencies other
17 than EPA; and

18 g. liability for violations of local, State, or federal law or regulations.

19 23. With respect to any claim or cause of action asserted by the United States, the
20 Settling Respondent shall bear the burden of proving that the claim or cause of action, or any
21 part thereof, is attributable solely to Existing Contamination.

22 24. Nothing in this Agreement is intended as a release or covenant not to sue for any
23 claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or
24 in equity, which the United States may have against any person, firm, corporation or other
25 entity not a party to this Agreement.

26 25. Nothing in this Agreement is intended to limit the right of EPA to undertake
27 future response actions at the Site or to seek to compel parties other than the Settling
28

Respondent to perform or pay for response actions at the Site. Nothing in this Agreement shall in any way restrict or limit the nature or scope of response actions which may be taken or be required by EPA in exercising its authority under federal law. Settling Respondent acknowledges that it is purchasing Property where response actions may be required.

XII. SETTLING RESPONDENT'S COVENANT NOT TO SUE

26. In consideration of the United States' Covenant Not To Sue in Section X of this Agreement, the Settling Respondent hereby covenants not to sue and not to assert any claims or causes of action against the United States, its authorized officers, employees, or representatives with respect to the Site or this Agreement, including but not limited to, any direct or indirect claims for reimbursement from the Hazardous Substance Superfund established pursuant to the Internal Revenue Code, 26 U.S.C. § 9507, through CERCLA Sections 106(b)(2), 111, 112, 113, or any other provision of law, any claim against the United States, including any department, agency, or instrumentality of the United States under CERCLA Sections 107 or 113 related to the Site, or any claims arising out of response activities at the Site, including claims based on EPA's oversight of such activities or approval of plans for such activities.

27. The Settling Respondent reserves, and this Agreement is without prejudice to, actions against the United States based on negligent actions taken directly by the United States, not including oversight or approval of the Settling Respondent's plans or activities, that are brought pursuant to any statute other than CERCLA or RCRA and for which the waiver of sovereign immunity is found in a statute other than CERCLA or RCRA. Nothing herein shall be deemed to constitute preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

XIII. PARTIES BOUND/TRANSFER OF COVENANT

28. This Agreement shall apply to and be binding upon the United States and shall

1 apply to and be binding upon the Settling Respondent, its parents, subsidiaries, officers,
2 directors, and employees. The United States' Covenant Not to Sue in Section X and
3 Contribution Protection in Section ? shall apply to Settling Respondent's parents, subsidiaries,
4 officers, directors, or employees, to the extent that the alleged liability of the parent,
5 subsidiary, officer, director, or employee is based on its status and in its capacity as a parent,
6 subsidiary, officer, director, or employee of Settling Respondent, and not to the extent that the
7 alleged liability arose independently of the alleged liability of the Settling Respondent. Each
8 signatory of a Party to this Agreement represents that he or she is fully authorized to enter into
9 the terms and conditions of this Agreement and to legally bind such Party.

10 29. Notwithstanding any other provisions of this Agreement, all of the rights, benefits
11 and obligations conferred upon Settling Respondent under this Agreement may be assigned or
12 transferred to any person with the prior written consent of EPA in its sole discretion.

13 30. The Settling Respondent agrees to pay the reasonable costs incurred by EPA to
14 review any subsequent requests for consent to assign or transfer the benefits conferred by this
15 Agreement.

16 31. In the event of an assignment or transfer of the Property or an assignment or
17 transfer of an interest in the Property, the assignor or transferor shall continue to be bound by
18 all the terms and conditions, and subject to all the benefits, of this Agreement except as EPA
19 and the assignor or transferor agree otherwise and modify this Agreement, in writing,
20 accordingly. Moreover, prior to or simultaneous with any assignment or transfer of the
21 Property, the assignee or transferee must consent in writing to be bound by the terms of this
22 Agreement including but not limited to the certification requirement in Section IX of this
23 Agreement in order for the Covenant Not to Sue in Section X to be available to that party.
24 The Covenant Not To Sue in Section X shall not be effective with respect to any assignees or
25 transferees who fail to provide such written consent to EPA.
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XIV. DISCLAIMER

32. This Agreement in no way constitutes a finding by EPA as to the risks to human health and the environment which may be posed by contamination at the Property or the Site nor constitutes any representation by EPA that the Property or the Site is fit for any particular purpose.

XV. DOCUMENT RETENTION

33. The Settling Respondent agrees to retain and make available to EPA all business and operating records, contracts, Site studies and investigations, and documents in the possession or control of Settling Respondent, its officers, directors, employees, contractors, or agents relating to operations at the Property, for at least ten years, following the effective date of this Agreement unless otherwise agreed to in writing by the Parties. Documents relating to performance of work pursuant to Section V and the Statement of Work in Exhibit 3 shall be retained for ten years or until completion of work, whichever is longer. At the end of the retention period, the Settling Respondent shall notify EPA of the location of such documents and shall provide EPA with an opportunity to copy any documents at the expense of EPA.

XVI. PAYMENT OF COSTS

34. If the Settling Respondent fails to comply with the terms of this Agreement, including, but not limited to, the provisions of Section IV (Payment), Section V (Work to Be Performed), Section VI (Limitations on Use of Property), Section VII (Access/Notice to Successors in Interest), Section VIII (Due Care/Cooperation) of this Agreement, it shall be liable for all litigation and other enforcement costs incurred by the United States to enforce this Agreement or otherwise obtain compliance.

XVII. NOTICES AND SUBMISSIONS

35. Whenever, under the terms of this Agreement, written notice is required to be

1 given or other document is required to be sent by one Party to another, it shall be directed to
2 the individuals at the addresses specified below, unless those individuals or their successors
3 give notice of a change to the other Parties in writing. All notices and submissions shall be
4 considered effective upon receipt, unless otherwise provided.

5 As to the United States:

6 Loren McPhillips, Project Manager
7 EPA Region 10
8 1200 Sixth Ave, ECL-115
9 Seattle, WA 98101
10 206-553-4903

Jennifer Byrne, Asst. Regional Counsel
EPA Region 10
1200 Sixth Ave, ORC-158
Seattle, WA 98101
206-553-0050

9 Elaina Jackson
10 Pacific Wood Preserving of Oregon
11 5601 District Blvd.
12 Bakersfield, CA 93313
13 (661) 833-0429

Charles Blumenfeld
Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101
(206) 264-6364

13 XVIII. EFFECTIVE DATE

14 36. The effective date of this Agreement shall be either the date upon which EPA
15 issues written notice to the Settling Respondent that EPA has fully executed the Agreement
16 after review of and, where necessary, response to any public comment received or the date
17 upon which EPA receives payment as provided for in Section IV, whichever is later.

19 XIX. TERMINATION

20 37. If any Party believes that any or all of the obligations under Section VII
21 (Access/Notice to Successors in Interest) are no longer necessary to ensure compliance with
22 the requirements of the Agreement, that Party may request in writing that the other Party agree
23 to terminate the provision(s) establishing such obligations; provided, however, that the
24 provision(s) in question shall continue in force unless and until the party requesting such
25 termination receives written agreement from the other party to terminate such provision(s).

1 XX. CONTRIBUTION PROTECTION

2 38. With regard to claims for contribution against Settling Respondent or any
3 successors or assigns, the Parties hereto agree that the Settling Respondent is entitled to
4 protection from contribution actions or claims as provided by CERCLA Section 113(f)(2),
5 42 U.S.C. § 9613(f)(2), for matters addressed in this Agreement. The matters addressed in
6 this Agreement are all response actions taken or to be taken and response costs incurred or to
7 be incurred by the United States or any other person for the Site with respect to the Existing
8 Contamination.

9 39. The Settling Respondent agrees that with respect to any suit or claim for
10 contribution brought by it for matters related to this Agreement it will notify the United States
11 in writing no later than 60 days prior to the initiation of such suit or claim.

12 40. The Settling Respondent also agrees that with respect to any suit or claim for
13 contribution brought against it for matters related to this Agreement it will notify in writing
14 the United States within 10 days of service of the complaint on Settling Respondent.

15
16 XXI. EXHIBITS

17 41. Exhibit 1 shall mean the description of the Property which is the subject of this
18 Agreement.

19 42. Exhibit 2 shall mean the map depicting the Site.

20 43. Exhibit 3 shall mean the Statement of Work.

21
22 XXII. REMOVAL OF LIEN

23 44. Subject to the Reservation of Rights in Section XI of this Agreement, upon
24 payment of the amount specified in Section IV (Payment), EPA agrees to remove any lien or
25 liens it may have on the Property under Section 107(l) of CERCLA, 42 U.S.C. § 9607(l), as a
26 result of response action conducted by EPA at the Property.

XXIII. PUBLIC COMMENT

45. This Agreement shall be subject to a 14-day public comment period, after which EPA may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper, or inadequate.

1 IT IS SO AGREED:

2 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

3 BY:

4
5 
6 Regional Administrator

1 February 2002
Date

7 Region 10
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1 IT IS SO AGREED:

2 UNITED STATES DEPARTMENT OF JUSTICE

3 BY:

4
5 Tom Sansonetti

2.4.02

6 Thomas L. Sansonetti

Date

7 Assistant Attorney General

8 Environment and Natural Resources Division

9 United States Department of Justice

1 IT IS SO AGREED:

2 BY:

3
4 Elaina Jackson January 23, 2002

5 Name Elaina Jackson

Date

6 Pacific Wood Preserving of Oregon
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EXHIBIT !
PROPERTY DESCRIPTION

Property located in Section 33, Township 5, Range 6, of the Willamette Meridian, County of Yamhill, State of Oregon.

PARCEL 1:

TRACT A: Tract No. 1, Subdivision of Lot No. 4 in the J. P. Wood Donation Land Claim in Section 33, Township 5 South, Range 6 West of the Willamette Meridian in Yamhill County, Oregon, and more particularly described as follows:

BEGINNING at a point in the center of State Highway, 1.484 chains North and 7.181 chains North 71°26' West from the Southeast corner of the J. P. Wood Donation Land Claim, Notification No. 6708, Claim No. 44 in Section 33, Township 5 South, Range 6 West of the Willamette Meridian in Yamhill County, Oregon; thence North 18.143 chains; thence South 89°18' West 1.122 chains; thence South 17.69 chains; thence South 71°26' East 1.181 chains to the point of beginning.

SAVE AND EXCEPTING THEREFROM that portion conveyed to the State of Oregon, by and through its Department of Transportation, Highway Division, by Deed recorded April 22, 1977 in Film Volume 119, Page 1255, Deed and Mortgage Records.

TRACT B: Beginning at the intersection of the center line of the State highway and the East line of the John P. Wood Donation Land Claim No. 44 in Township 5 South, Range 6 West of the Willamette Meridian in Yamhill County, Oregon, which point is North 12' West 1.484 chains from the Southeast corner of said Donation Land Claim; thence North 12' West along the East line of said Donation Land Claim 20.887 chains to the Southerly line of the Southern Pacific Company Right of Way; thence South 86°18' West along said Southerly line of said right of way 6.81 chains; thence South 18.143 chains to the center of said State Highway; thence South 71°26' East along the center of said State Highway to the point of beginning.

TRACT C: The following described tract lying in Section 33, Township 5 South, Range 6 West of the Willamette Meridian in Yamhill County, Oregon:

BEGINNING at an iron rod, said rod being South 75° West 20.384 chains, North 00°16' East 26.337 chains, North 84°55' East 1.819 chains and North 86°19' East 8.793 chains and South 00°07' East 14.414 chains, North 82°21' West 1.250 chains from the Southeast corner of the J. P. Wood Donation Land Claim, Township 5 South, Range 6 West of the Willamette Meridian; thence North 14.177 chains to the center of the railroad; thence North 86°19' East 1.206 chains to a point; thence South 00°07' East 14.414 chains to an iron rod; thence North 82°21' West 1.250 chains to the point of beginning. EXCEPT the North 30 feet lying in railroad.

SAVE AND EXCEPTING THEREFROM that portion conveyed to the State of Oregon, by and through its Department of Transportation, Highway Division, by Deed recorded April 22, 1977 in Film Volume 119, Page 1255, Deed and Mortgage Records.

TRACT D: Beginning at an iron rod, said rod being South 75° West 20.384 chains; North 00°16' East 26.337 chains, North 84°55' East 1.819 chains, North 86°19' East 8.793 chains, South 00°07' East 14.414 chains and North 82°21' West 1.250 chains from the Southeast corner of the J. P. Wood Donation Land Claim, Township 5 South, Range 6 West of the Willamette Meridian in Yamhill County, Oregon; thence North 14.177 chains to the center of the railroad; thence South 86°19' West 0.905 chains; thence South 13.998 chains to an iron rod on the West boundary of the Mackie property; thence South 82°21' East 0.909 chains to the point of beginning.

EXCEPTING THEREFROM the North 30 feet being in railroad, all of the above tract being located in Section 33, Township 5 South, Range 6 West of the Willamette Meridian in Yamhill County, Oregon.

PROPERTY DESCRIPTION

SAVE AND EXCEPTING THEREFROM that portion conveyed to the State of Oregon, by and through its Department of Transportation, Highway Division, by Deed recorded April 22, 1977 in Film Volume 119, Page 1255, Deed and Mortgage Records.

TRACT E: Beginning at an iron rod, said point being South 75° West 20.384 chains, North 00°16' East 26.337 chains, North 84°55' East 1.819 chains, North 86°19' East 8.793 chains, South 00°07' East 14.584 chains and South 12°07' East 0.926 chains from the Southeast corner of the J. P. Wood Donation Land Claim, Township 5 South, Range 6 West of the Willamette Meridian in Yamhill County, Oregon; thence South 74°58' East 0.917 chains; thence North 15.798 chains to the center of the railroad; thence South 86°19' West along the center of the railroad 1.118 chains; thence South 00°07' East 14.584 chains to an iron rod; thence South 12°07' East 0.926 chains to the point of beginning.

EXCEPTING THEREFROM the North 30 feet being in the railroad.

SAVE AND EXCEPTING THEREFROM that portion conveyed to the State of Oregon, by and through its Department of Transportation, Highway Division, by Deed recorded April 22, 1977 in Film Volume 119, Page 1255, Deed and Mortgage Records.

PARCEL 2: Beginning at a point in the center of the State Highway, 1.484 chains North and 10.81 chains North 71°26' West from the Southeast corner of the J. P. Wood Donation Land Claim, Notification No. 6708, Claim No. 44 in Section 33, Township 5 South, Range 6 West of the Willamette Meridian in Yamhill County, Oregon; thence North 16.76 chains; thence South 86°18' West 90.9 links; thence South 16.39 chains; thence South 71°26' East 95.7 links to the point of beginning.

EXCEPTING THEREFROM that portion conveyed to Sheridan Pressure Treated Lumber, Inc., an Oregon corporation by Deed recorded October 16, 1969 in Film Volume 77, Page 828, Deed and Mortgage Records.

PARCEL 3: A tract of land in Section 33, Township 5 South, Range 6 West of the Willamette Meridian in Yamhill County, Oregon, more particularly described as follows:

Commencing at the Southwest corner of a tract conveyed to Sheridan Pressure Treated Lumber, Inc., by Deed recorded October 13, 1969 in Film Volume 77, Page 744, Deed and Mortgage Records of Yamhill County, Oregon; thence South 82°21' East along the South line of said Sheridan Pressure tract 1.250 chains to the Southeast corner thereof; thence South 0°07' East 0.170 chains; thence South 12°07' East 0.926 chains to the Northwest corner of a tract conveyed to M. Estella Bunn, by Deed recorded May 17, 1971 in Film Volume 84, Page 96, Deed and Mortgage Records of Yamhill County, Oregon; thence South 15°02' West 1.747 chains to an iron rod on the North boundary of State Highway No. 18; thence North 71°26' West along the North boundary of said State Highway 1.034 chains; thence North 2.593 chains to the point of beginning.

PARCEL 4: The following described tract lying in Section 33, Township 5 South, Range 6 West of the Willamette Meridian in Yamhill County, Oregon, more particularly described as follows:

Beginning at an iron rod, said point being South 75° West 20.384 chains, North 00°16' East 26.337 chains, North 84°55' East 1.819 chains, North 86°19' East 8.793 chains, South 00°07' East 14.584 chains and South 12°07' East 0.926 of a chain from the Southeast corner of the J. P. Wood Donation Land Claim, Township 5 South, Range 6 West of the Willamette Meridian in Yamhill County, Oregon; thence South 15°02' West 1.747 chains to an iron rod at the North boundary of the highway; thence South 71°86' East 1.412 chains to the East boundary of the Bunn property; thence North 1.899 chains to an iron rod; thence North 74°58' West 0.917 of a chain to the point of beginning.

Newberg Surveying
1205 N. Evans
McMinnville, OR 97128
(503)-474-4742 • (503)-474-3752 Fax

April 19, 2002

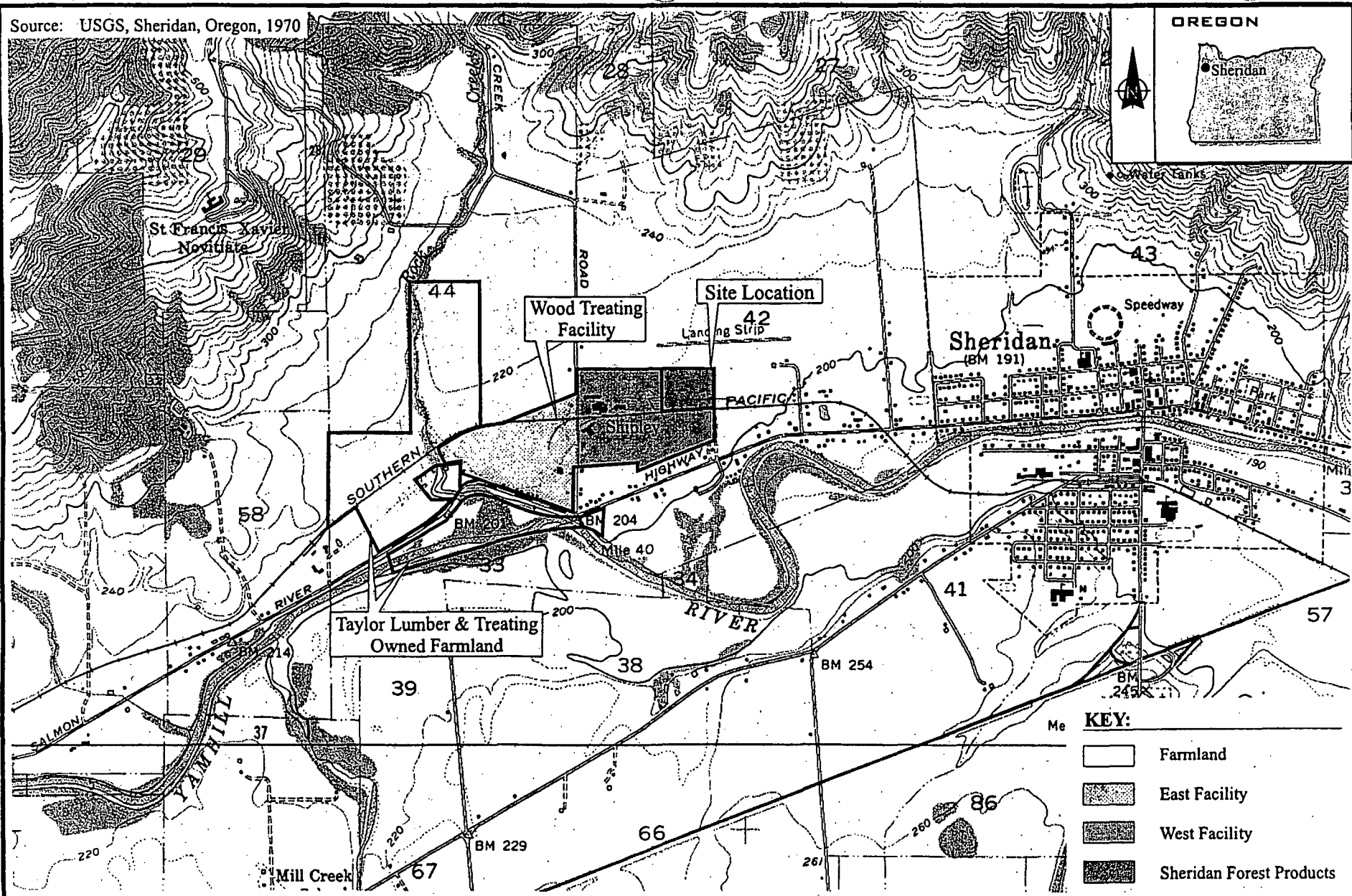
Revised Legal description for Tax Lot 5633-500 Parcel 5

A tract of land being part of the John P. Wood Donation Land Claim No. 44 in Township 5 South, Range 6 West, Willamette Meridian, in Yamhill County, Oregon being more particularly described as follows:

Beginning at a point along the south margin of the Southern Pacific Railroad, said point being 30' distant from the existing railroad centerline and South 27° 48' 56" West 2054.03 feet from a brass cap in monument box (accepted as being the Northwest corner of Lot 12 of Elery Land, an unrecorded plat); thence along said margin North 86° 37' 21" East 210.53 feet to the Northeast corner of that tract of land described in deed dated July 31, 1971 and recorded in Film Volume 86, Page 984, Yamhill County Deed Records, and the TRUE POINT OF BEGINNING; thence South 0° 19' 50" West along the east boundary of said tract of land, 1054.15 feet more or less to the northerly margin of State Highway 18B; thence continuing along said highway margin, North 71° 07' 03" West 221.17 feet; thence North 71° 06' 34" West 371.03 feet to an iron pipe accepted as being along the west line of Lot 3 of the Elery Land unrecorded plat; thence continuing along said north margin of highway 249 feet more or less to a 5/8" iron rod, said iron rod bears N73°57'20"E 26.07 feet from a 1/2" iron pipe held for the Southeast corner of land described and recorded in Film Volume 149, Page 1182, Yamhill County Deed Records, (chord bearing North 82° 48' 13" West, 249.32 feet); thence leaving said highway, 25 feet from and parallel with the east boundary of land described and recorded in Film Volume 149, Page 1182, North 0° 24' 55" East 397.61 feet to an iron rod; thence North 70° 28' 09" West 271.91 feet to an iron rod; thence North 53° 38' 23" West 130.09 feet to an iron rod set on the southerly margin of the Southern Pacific Railroad, 30 feet from the existing railroad centerline; thence along said southerly margin 1214.61 feet more or less, (chord bearing North 77°19' 58" East 1201.12 feet) to the TRUE POINT OF BEGINNING, containing 18.2 acres more or less.

EXHIBIT 2

Source: USGS, Sheridan, Oregon, 1970



ecology and environment, inc.

International Specialists in the Environment
Seattle, Washington

TAYLOR LUMBER AND TREATING, INC.
Sheridan, Oregon

0 25 5
Approximate Scale in Miles

SITE VICINITY MAP

Drawn:
AES

Date
5/19/00

Job No.
DC0601SIT0

Dwg.No.
DC0601 2-1

Prospective Purchaser Agreement
Pacific Wood Preserving of Oregon

EXHIBIT 3

**STATEMENT OF WORK
MAINTENANCE OF THE ASPHALT COVER,
SOIL STORAGE CELLS, AND GROUNDWATER EXTRACTION SYSTEM**

Taylor Lumber & Treating Site, Sheridan, Oregon

As part of this agreement, Pacific Wood Preserving of Oregon (PWPO) will perform the following maintenance tasks:

1. Asphalt Cover Inspection and Maintenance
2. Contaminated Soil Storage Cell Inspection and Maintenance
3. Groundwater Extraction System Operations and Maintenance

Pursuant to Section V of the Prospective Purchaser Agreement to which this Statement of Work is appended, PWPO shall commence the following maintenance activities on the effective date of the Prospective Purchaser Agreement.

A. Asphalt Cover Inspection and Maintenance

As part of the removal action at the Taylor Lumber & Treating Site, two areas were covered with asphalt. The areas covered with asphalt are shown in Figures 1 and 2. In order to ensure that the asphalt caps remain structurally sound and functioning as designed, PWPO personnel shall perform inspections of the asphalt cap at intervals not to exceed one week (seven calendar days). PWPO shall conduct the following inspection and maintenance activities:

1. Visually inspect the two asphalt covers to ensure that they are not significantly damaged in a way that compromises the performance of the cap. Ponding of water shall be minimized and cracks repaired as soon as possible after detection and no longer than seven days after detection.
2. Immediately clean up spills and contamination on the asphalt covers consistent with the appropriate RCRA-approved contingency plan (i.e. storage yard contingency plan).
3. Qualified personnel shall perform asphalt inspections and shall approve and oversee all required maintenance.

4. Lineal cracks in the asphalt cover shall be repaired within seven days of detection. Other repairs to the asphalt cover, not exceeding 225 square yards, shall be repaired as soon as feasible.
5. For repairs to the asphalt cover exceeding 225 square yards, PWPO shall prepare a plan that identifies specific procedures, to be used for the repair of the damaged asphalt cover. The plan shall also present a schedule for performance of the necessary repairs and shall identify mechanisms to prevent recurrence of the damage. After EPA approval of the plan, PWPO shall perform the necessary work pursuant to the approved plan.
6. A record of each inspection must be prepared and filed onsite. The inspection records shall be made available to EPA or EPA's authorized representatives upon request. The record shall include the following:
 - a. The time and date of each inspection.
 - b. The name of the person performing the inspection.
 - c. A brief description, including type and location, of any problems identified.
 - d. A brief description of required repairs.
 - e. The time and date that any required repairs were performed.
 - f. The name of the person(s) performing the required repairs.
 - g. The time and date of the inspection and final approval of required repairs.
 - h. The name of the person who inspected and approved the repairs.
7. In the event that the cover area is expanded or modified for remediation purposes, PWPO will perform inspection and maintenance on the expanded cover areas in accordance with this Statement of Work.
8. These activities shall be performed for as long as asphalt cover is necessary to address contamination at the Site.

B. Contaminated Soil Storage Cells Inspection and Maintenance Requirements

As part of the removal action at the Taylor Lumber & Treating Site, contaminated soil was excavated and stored in three cells located in the northwest corner of the Site, shown in Figure 1. In order to ensure that the cells remain structurally sound and the cell liner covers are intact and properly secured, PWPO personnel shall perform inspections of the contaminated soil storage cells ("cells") at intervals not to exceed one week (seven calendar days). PWPO shall conduct the following inspection and maintenance activities:

1. Visually inspect the berms of each cell for areas that exhibit seepage of moisture through or under the berms. If areas of seepage are found, PWPO shall repair the berms immediately.

2. Visually inspect the berms of each cell to ensure they are not being eroded by stormwater runoff. If areas of erosion are found, PWPO shall repair the eroding areas immediately.
3. Visually inspect the liner covering of each cell to ensure that it is properly secured. If the liner is not properly secured, PWPO shall secure it immediately. PWPO shall also replace damaged sand bags as necessary.
4. Visually inspect the liner covering of each cell to ensure that it is not damaged in any way. If the liner is damaged, PWPO must immediately replace or repair the liner covering in accordance with the manufacturer's requirements.
5. A record of each inspection must be prepared and filed onsite. The inspection records shall be made available to EPA or EPA's authorized representatives upon request. The record shall include the following:
 - a. The time and date of each inspection.
 - b. The name of the person performing the inspection.
 - c. A brief description, including type and location, of any problems identified.
 - d. A brief description of required repairs.
 - e. The time and date that any required repairs were performed.
 - f. The name of the person(s) performing required repairs.
 - g. The time and date of the inspection and final approval of required repairs.
 - h. The name of the person who inspected and approved the repairs.
6. These activities shall be performed for as long as contaminated soil is stored at the Site.

C. Groundwater Extraction System Operations and Maintenance Plan Requirements

In order to control the groundwater elevation within the boundaries of the barrier wall that was constructed by EPA as part of the removal action, EPA installed a groundwater extraction system. The groundwater extraction system is designed to keep the groundwater elevation at or below three feet below ground surface (bgs). Four extraction wells (PW-1, PW-2, PW-3, and PW-4) were installed to maintain the desired groundwater elevation. Because of site geology, the wells will sustain only a low flow rate. Therefore, low-flow, air-driven pneumatic pumps were installed in each well.

The effluent from wells PW-1 and PW-2 are pumped into a holding tank located next to the southwest corner of the boiler building. The effluent from well PW-3 is pumped into a sump pit located at the east end of the tank farm building. The effluent from well PW-4 is pumped into a sump pit located on the north side of the drip pad near the southwest corner of the creosote unloading building. Each pump's effluent is

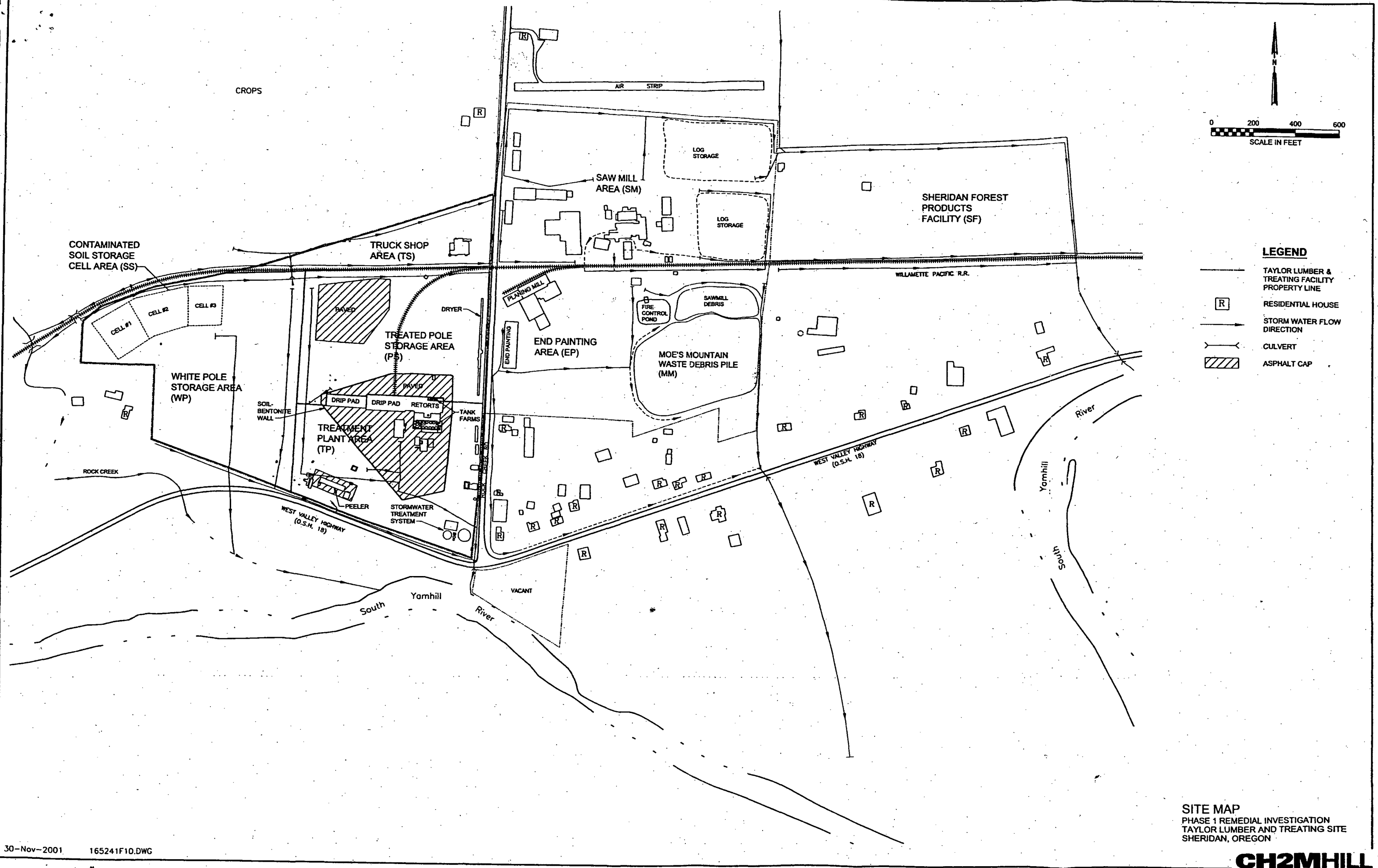
eventually pumped into an existing evaporator system located at the treatment facility. Please refer to Figure 3 for the location of each well, associated air supply and effluent piping, and effluent discharge points. The pumps must be operated continuously.

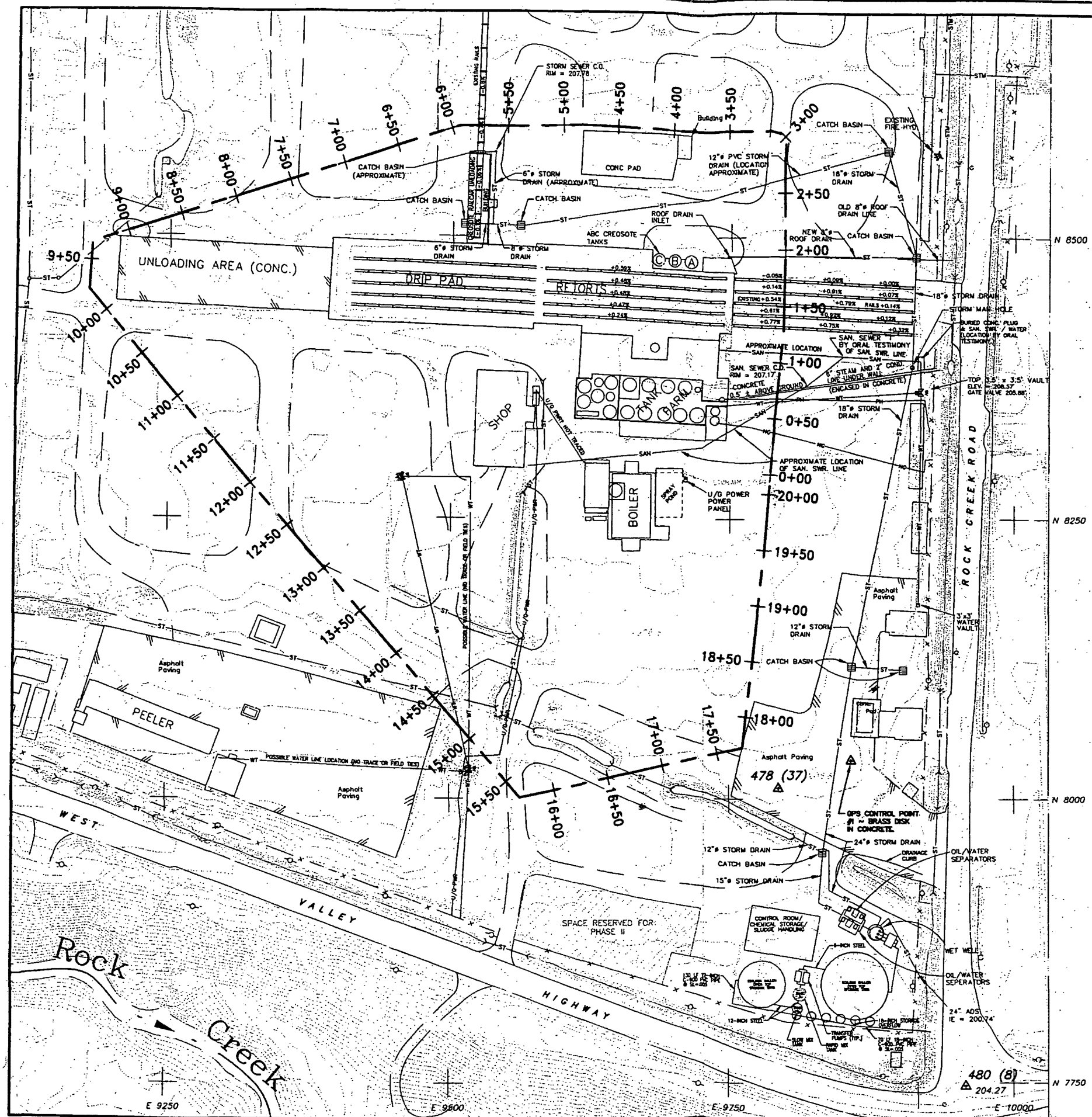
PWPO shall operate and perform maintenance on the above described groundwater extraction system as follows:

1. Visually inspect each well vault and ensure that all piping is intact and is not leaking. If any piping is leaking, the pump shall be shut off and the piping repaired immediately.
2. Visually confirm that water is being pumped through the effluent lines. To check wells PW-1 and PW-2, PWPO shall attach a hose to the ball valve and pump the effluent into a container. Since wells PW-3 and PW-4 each discharge into a sump pit, verification can be achieved by witnessing the effluent discharge. If a pump is not functioning, PWPO shall identify the problem and repair the pump as soon as possible.
3. Record the air pressure setting for each pump. The air pressure should be set between 65 and 70 pounds per square inch.
4. Record the time required for three pump cycles and calculate the flow rate.
5. A record of each inspection must be prepared and filed onsite. The inspection records shall be made available to EPA or EPA's authorized representatives upon request. The record shall include the following:
 - a. The time and date of each inspection.
 - b. The name of the person performing the inspection.
 - c. The time required for each pump to go through three pumping cycles.
 - d. Calculations of the flow rate for each pump.
 - e. The air pressure at the well head of each pump.
 - f. A brief description of any leaks found in the air or water piping.
 - g. A brief description of repairs made to the air or water piping.
 - h. A brief description of problems with a pump.
 - i. A brief description of repairs made to a pump.
 - j. The time and date that any required repairs were performed.
 - k. The name of the person(s) performing required repairs.
 - l. The time and date of the inspection and final approval of required repairs.
 - m. The name of the person who inspected and approved the repairs.
6. In the event that the extraction system is expanded or modified for remediation purposes, PWPO will operate and perform maintenance on the new or modified extraction system.
7. These activities shall be performed until January 31, 2022, or until the

groundwater extraction system is no longer necessary to address contamination at the Site, whichever is sooner. If, after January 31, 2022, the groundwater extraction system is still necessary, EPA and PWPO shall negotiate in good faith an arrangement for the continued operation of the groundwater extraction system.

PWPO may choose not to run the effluent through the current evaporator system. PWPO may install a carbon treatment system to replace the current evaporator system. Such a system must comply with all applicable state and federal laws, including disposal of effluent and used carbon filters. If PWPO wishes to adopt some other means of disposing the effluent, PWPO shall present a plan for alternate disposal to EPA.





LEGEND

- WT = WATER LINE (2"Ø STEEL)
- NG = NATURAL GAS LINE (2"Ø STEEL)
- O/H = OVERHEAD UTILITY
- PH = UNDERGROUND PHONE
- U/G PWR = UNDERGROUND POWER
- SAN = SANITARY SEWER
- ST = STORM SEWER
- STM = STEAM LINE
- ⊗ = UTILITY POLE
- +— = RAIL
- x— = SITE FENCE
- △ = SURVEY CONTROL POINT
- ⊗ = EXISTING WATER VALVE
- ⊗ = EXISTING HYDRANT
- — — = EXISTING GROUND SURFACE ELEVATION CONTOUR
- — — = GRAVEL ROAD
- 3+50 = SOIL-BENTONITE WALL CONSTRUCTION STATIONING

KEY

- CO = CLEAN-OUT
- CONC = CONCRETE



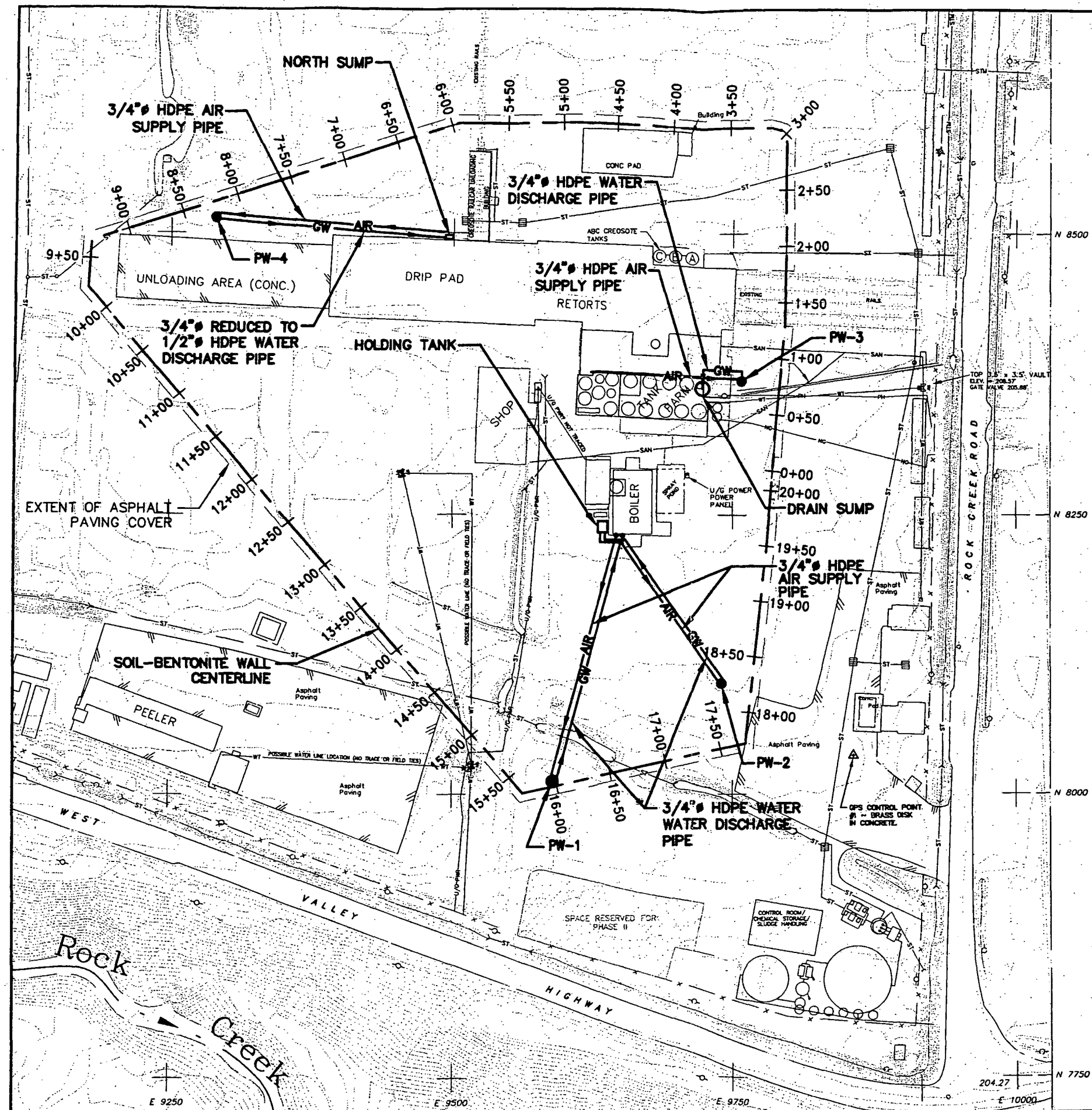
APPROXIMATE SCALE IN FEET
0 100 200

BARRIER WALL LOCATION MAP

TAYLOR LUMBER AND TREATING SITE

SCALE	DATE	CAD FILE NO.	FIGURE NO.
NOTED	11-28-00	DI1901F3_7B.DWG	

PWPO Statement of Work Figure 2



LEGEND

- PW-1 = GROUNDWATER EXTRACTION WELL
- GW — = GROUNDWATER EXTRACTION WELL DISCHARGE LINE (3/4" HDPE)
- AIR — = COMPRESSED AIR SUPPLY LINE (3/4" HDPE)
- WT — = WATER LINE (2" STEEL)
- NG — = NATURAL GAS LINE (2" STEEL)
- O/H — = OVERHEAD UTILITY
- PH — = UNDERGROUND PHONE
- U/G PWR — = UNDERGROUND POWER
- SAN — = SANITARY SEWER LINE
- ST — = STORM SEWER LINE
- STM — = STEAM LINE
- = DIRECTION OF FLOW
- ⊙ = UTILITY POLE
- — — = RAIL
- x — = SITE FENCE
- △ = SURVEY CONTROL POINT
- ⊗ = EXISTING WATER VALVE
- ⊗ = EXISTING HYDRANT
- — — = EXISTING GROUND SURFACE ELEVATION CONTOUR
- — — = GRAVEL ROAD
- — — = SOIL-BENTONITE WALL CENTERLINE
- 3+50 = SOIL-BENTONITE WALL CONSTRUCTION STATIONING

KEY

- CO = CLEAN-OUT
- CONC = CONCRETE



APPROXIMATE SCALE IN FEET
0 100 200

GROUNDWATER EXTRACTION WELL AND PIPING LAYOUT

TAYLOR LUMBER AND TREATING SITE

SCALE	DATE	CAD FILE NO.	FIGURE NO.
NOTED	11-30-00	DI1901F3_9B.DWG	

PWPO Statement of Work Figure 3